

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION**

<b>TRACI LYNETTE PHILLS</b>	<b>:</b>	<b>DOCKET NO. 2:10-cv-1498</b>
<b>VS.</b>	<b>:</b>	<b>JUDGE MINALDI</b>
<b>U.S. COMMISSIONER, SOCIAL SECURITY ADMINISTRATION</b>	<b>:</b>	<b>MAGISTRATE JUDGE KAY</b>

**REPORT AND RECOMMENDATION**

According to LR 41.3W, “[a] civil action may be dismissed . . . for lack of prosecution . . . [w]here no service of process has been made within 120 days after filing of the complaint.” Additionally, “[w]here a cause has been pending six months without proceedings being taken within such period” a case may similarly be dismissed. LR 41.3W.


Plaintiff has failed to effectuate service on defendant, or to take any other action in this case since the filing of this suit on September 24, 2010.

It is THEREFORE RECOMMENDED that plaintiff’s claims be DISMISSED WITHOUT PREJUDICE.

Pursuant to LR41.3W, plaintiff is allowed fourteen calendar days from the mailing of this notice to file evidence of good cause for failure to act. Additionally, under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), parties aggrieved by this recommendation have fourteen (14) business days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party’s objections within fourteen (14) days after being served with a copy of any objections or response to the District judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996).

THUS DONE this 13<sup>th</sup> day of May, 2011.

  
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KATHLEEN KAY  
UNITED STATES MAGISTRATE JUDGE